

**In re: DERWOOD STEWART AND RHONDA STEWART, d/b/a STEWART'S NURSERY, a/k/a STEWART'S FARM, STEWART'S FARM & NURSERY, THE DERWOOD STEWART FAMILY, AND STEWART'S NURSERY FARM STABLES.
HPA Docket No. 99-0028.
Stay Order as to Derwood Stewart.
Filed March 4, 2002.**

Colleen A. Carroll, for Complainant.
L. Thomas Austin and Jennifer Mitchell, for Respondent.
Order issued by William G. Jenson, Judicial Officer.

On September 6, 2001, I issued a Decision and Order as to Derwood Stewart: (1) concluding that on October 28, 1998, Derwood Stewart [hereinafter Respondent] violated the Horse Protection Act of 1970, as amended (15 U.S.C. §§ 1821-1831), when he entered a horse for the purpose of showing or exhibiting the horse in the 30th Anniversary National Walking Horse Trainers Show, while the horse was sore; (2) assessing Respondent a \$2,200 civil penalty; and (3) disqualifying Respondent for 1 year from showing, exhibiting, or entering any horse and from managing, judging, or otherwise participating in any horse show, horse exhibition, horse sale, or horse auction. *In re Derwood Stewart* (Decision as to Derwood Stewart), 60 Agric. Dec. 570 (2001).

On February 22, 2002, Respondent filed a Motion for Stay requesting a stay of the Order in *In re Derwood Stewart* (Decision as to Derwood Stewart), 60 Agric. Dec. 570 (2001), pending the outcome of proceedings for judicial review. On February 25, 2002, the Hearing Clerk transmitted the record to the Judicial Officer for a ruling on Respondent's Motion for Stay.

On February 25, 2002, Colleen A. Carroll, counsel for the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter Complainant], contacted the Office of the Judicial Officer by telephone and informed me that Complainant does not object to Respondent's Motion for Stay. Respondent has appealed *In re Derwood Stewart* (Decision as to Derwood Stewart), 60 Agric. Dec. 570 (2001), to the United States Court of Appeals for the Sixth Circuit. *Stewart v. United States Dep't of Agric.*, No. 01-4204 (6th Cir. Nov. 14, 2001). Therefore, in accordance with 5 U.S.C. § 705, Respondent's Motion for Stay is granted.

For the foregoing reasons, the following Order should be issued.

ORDER

The Order issued in *In re Derwood Stewart* (Decision as to Derwood Stewart), 60 Agric. Dec. 570 (2001), is stayed pending the outcome of proceedings for judicial review. This Stay Order as to Derwood Stewart shall remain in effect until

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it is lifted by the Judicial Officer or vacated by a court of competent jurisdiction.
